

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 April 2023

Public Authority: NHS England
Address: Quarry House
Quarry Hill
Leeds
LS2 7UE

Decision (including any steps ordered)

1. The complainant requested information about the national Cavell Programme that is being run by NHS England. By the date of this notice NHS England ("NHSE") had not issued a substantive response to this request.
2. The Commissioner's decision is that NHSE has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires NHSE to take the following step to ensure compliance with the legislation.
 - NHSE must provide a substantive response to the request in accordance with its obligations under FOIA.
4. NHSE must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

5. On 2 November 2022 the complainant wrote to NHSE and requested information in the following terms:

"I am interested in information about the national Cavell Programme that is being run by NHSE.

Please can you email me the following electronic documents:

1. The Terms of Reference agreed for the National Cavell Programme
 2. The Initial Project Initiation Documents (PIDs) that were submitted to the national programme (March / April 2021)
 3. Analysis of the PIDs by the national Cavell Programme and confirmation that all were approved
 4. The Agenda and Minutes from all National Cavell Programme Board meetings
 5. Summary of revenue funding given to all six pilot projects, including the date and size of all payments
 6. Copies of any authorisation letters or instructions that were sent to each pilot to develop their schemes
 7. The National Cavell Programme Business Case
 8. All briefing documents from NHSE and DHSC officials to Ministers regarding the Cavell programme and the six pilots."
6. NHSE acknowledged the request on November 2022. To date, a substantive response has not been issued.

Reasons for decision

7. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

8. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
9. On 23 March the Commissioner wrote to NHSE reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
10. Despite this intervention NHSE has failed to respond to the complainant.
11. From the evidence provided to the Commissioner in this case, it is clear that NHSE did not deal with the request for information in accordance with FOIA. The Commissioner finds that NHSE has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

Right of appeal

12. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatorychamber

13. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
14. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Michael Lea
Team Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF